

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

MANUEL DANIEL, JR.,)	
)	
Petitioner,)	
)	
-vs-)	Case No. CIV-17-120-F
)	
JANET DOWLING,)	
)	
Respondent.)	

ORDER

On November 27, 2017, United States Magistrate Judge Shon T. Erwin issued a Report and Recommendation, wherein he recommended the court deny petitioner’s petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254.

Presently before the court is petitioner’s *pro se* objection to the Report and Recommendation. In accordance with 28 U.S.C. § 636(b)(1), the court has conducted a *de novo* review of the matter. Having done so, the court concurs with the analysis of Magistrate Judge Erwin. The court finds no purpose to repeat that analysis here. Therefore, the court accepts, adopts and affirms the Report and Recommendation in its entirety.


Rule 11(a) of the Rules Governing Section 2254 Cases in the United States District Courts requires the court to issue or deny a certificate of appealability when it enters a final order adverse to the petitioner. A court may issue a certificate of appealability “only if the [petitioner] has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). “A petitioner satisfies this standard by demonstrating that jurists of reason could disagree with the district court’s resolution of his constitutional claim[] or that jurists could conclude the

issues presented are adequate to deserve encouragement to proceed further.” Miller-El v. Cockrell, 537 U.S. 322, 327 (2003) (citing Slack v. McDaniel, 529 U.S. 473, 484 (2000)). The court incorporates the deferential standard of 28 U.S.C. § 2254(d) into its consideration of a certificate of appealability. *See*, Dockins v. Hines, 374 F.3d 935, 938 (10th Cir. 2004).

Having considered the record in this case, the court concludes that petitioner is not entitled to a certificate of appealability. Therefore, the court denies a certificate of appealability.

Accordingly, the Report and Recommendation issued by United States Magistrate Judge Shon T. Erwin is **ACCEPTED, ADOPTED** and **AFFIRMED**. Petitioner’s Petition for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 by a Person in State Custody (doc. no. 1) is **DENIED**. A certificate of appealability is also **DENIED**. Judgment shall issue forthwith.

IT IS SO ORDERED this 2nd day of January, 2018.


STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE